IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 9928 of 2001

Between:

D.Baburao, S/o Veeraiah,
R/o Penamaluru (V) &(M), Krishna District.

..... PETITIONER

AND

1 The Commissioner of Police,
Krishna District Vijayawada.
2 The Asst. Commissioner of Police,
Krishna District. Vijayawada.
3 The Sub-Inspector of Police, Police Station-Suryaraopet,
Krishna District. Vijayawada.
4 U.Bangarraju, S.I. of Police,
Suryaraopet P.S., Krishna District,
Vijayawada.
5 Smt. Vanapalli Seetha Devi, W/o Satyanarayana,
R/o Kovelamudivari Street, D.No.28/29/1./45,
Suryaraopet, Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction, particularly one in the nature of Writ of Mandamus, declaring the action of the Respondents 1 to 4 in interfering in the civil disputes between the petitioner and the 5th Respondent by getting forcibly pro-notes and insisting him to sell away his property and pay the sale proceeds to the 5th Respondent as illegal, improper, unjustice, violative of Principles of natural justice and consequently direct the Respondents 1 to 4 not to interfere with the petitioner's peaceful living in the society with a further direction to return him the pro-notes which were forcibly obtained from him and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.B.PARAMESEWARA RAO

Counsel for the Respondent Nos.1 to 3: GP FOR HOME

Counsel for the Respondent Nos : G.V.R.CHOWDARY

The Court made the following :

ORDER:

The petitioner is a resident of Penamaluru Village, Krishna District. He alleges that respondent Nos.1 to 4 are interfering with the civil disputes between the petitioner and the 5th respondent and compelling the petitioner to execute pro-note and also sell away the property.

This Court while admitting the writ petition passed interim orders in W.P.M.P.No.12462 of 2001 directing respondent Nos.1 to 4 not to interfere in the civil disputes. A counter affidavit is also filed by the second respondent stating that on a complaint given by the 5th respondent on 22.02.2001, P.S.Penamaluru registered Crime No.53 of 2001, under Section 420 of the Indian Penal Code, 1860, and that subsequently, the crime was transferred to P.S.Suryaraopet. It is also stated that the petitioner surrendered before the Court of the V Metropolitan Magistrate, Vijayawada, and obtained bail. The allegation that the Police are interfering in civil disputes is denied and it is asserted that the investigation was taken up on a complaint given by the 5th respondent.

The petitioner has not chosen to file any reply affidavit, though the counter affidavit was filed on 24.09.2001. Be that as it is, there cannot be any objection for the Police to investigate into the crime in which the petitioner is an accused. However, as held by this Court in **S.Masthan Saheb v. P.S.R. Anjaneyulu** Police cannot interfere in civil dispute. After referring to the entire case law on the subject this Court held as under.

> "The various provisions to which a brief reference is made would show that the power of the police to collect intelligence regarding any design to commit cognizable offences and prevent commission of cognizable offences is considered to be the inherent power of the police organization. Whether or not there is a special enactment, the police are expected to perform its functions; namely, maintenance of peace and public order and prevention of cognizable offences. When all these statutes dealing with police in Andhra Pradesh deal with duty of the police relating to cognizable offences, a Police Officer would not be justified in saying that he/she is looking into a complaint made by a person which has, *ex facie*, trappings of the civil dispute. Indeed, under sub-section (1) of Section 154 of Cr.P.C, it shall be within the power and duty of the Police Officer to register only a cognizable offence. Though under Section 155 of Cr.P.C. a Police Officer can make an entry in the appropriate register about the information as to non-cognizable offence, such Police Officer shall not investigate a non-cognizable offence without the order of the Magistrate. As a necessary

> corollary, it must be concluded that any effort on the part of the police "to look into' any complaint by any person which does not contain allegations of commission of cognizable offences would not only violate the various provisions of the Andhra Act, as in this case, but also would violate Section 155 (2) of the Cr.P.C. Any such action would be *ex facie* illegal, whatever be the *ipsi dixit* of the police. There is no presumption in law that every rift in human relations would lead to a civil dispute and civil dispute would likely to result in clashes, resulting in offences against human body. Any such effort on the part of the police to look into the complaints regarding civil disputes is not even the part of the Code of Conduct of the Police, which was communicated by the Government of India in 1987…."

In view of the above, the writ petition is disposed of directing the Police to complete the investigation in Crime No.83 of 2001 of P.S.Suryaraopet, Vijayawada, and file a report under Section 173(2) of the Code of Criminal Procedure, 1973, if not already done.

The writ petition is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

21.06.2005

vs

To

1 The Commissioner of Police,
Krishna District Vijayawada.
2 The Asst. Commissioner of Police,
Krishna District. Vijayawada.
3 The Sub-Inspector of Police, Police Station-Suryaraopet,
Krishna District. Vijayawada.
4 Two C.Cs to the G.P. for Home, High Court Buildings,
Hyderabad (OUT).

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